

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

CALLAWAY GOLF COMPANY,	)	
	)	
Plaintiff,	)	C.A. No. 06-91 (SLR)
	)	
v.	)	
	)	
ACUSHNET COMPANY,	)	
	)	
Defendant.	)	

**ACUSHNET COMPANY'S MOTION TO DISMISS CALLAWAY'S CLAIM OF  
BREACH OF CONTRACT (COUNT V) AND TO PARTIALLY VACATE THE  
COURT'S NOVEMBER 20, 2007 OPINION AND ORDER**

Defendant Acushnet Company ("Acushnet") respectfully moves to dismiss Callaway's claim for breach of contract (Count V) and to partially vacate the Court's November 20, 2007 Opinion and Order. The grounds for this Motion are set forth in the accompanying brief in support.

Respectfully submitted,

POTTER ANDERSON & CORROON LLP

OF COUNSEL:

Joseph P. Lavelle  
Kenneth W. Donnelly  
Brian A. Rosenthal  
HOWREY LLP  
1299 Pennsylvania Ave., N.W.  
Washington, D.C. 20004  
Tel: (202) 783-0800

Dated: August 12, 2008  
878078 / 30030

By: /s/ David E. Moore  
Richard L. Horwitz (#2246)  
David E. Moore (#3983)  
Hercules Plaza 6th Floor  
1313 N. Market Street  
P.O. Box 951  
Wilmington, DE 19899  
Tel: (302) 984-6000  
[rhhorwitz@potteranderson.com](mailto:rhhorwitz@potteranderson.com)  
[dmoore@potteranderson.com](mailto:dmoore@potteranderson.com)

*Attorneys for Defendant Acushnet Company*

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

**CERTIFICATE OF SERVICE**

I, David E. Moore, hereby certify that on August 12, 2008, the attached document was electronically filed with the Clerk of the Court using CM/ECF which will send notification to the registered attorney(s) of record that the document has been filed and is available for viewing and downloading.

I further certify that on August 12, 2008, the attached document was Electronically Mailed to the following person(s):

Thomas L. Halkowski  
Fish & Richardson P.C.  
919 N. Market Street, Suite 1100  
P. O. Box 1114  
Wilmington, DE 19899-1114  
[halkowski@fr.com](mailto:halkowski@fr.com)

Frank E. Scherkenbach  
Fish & Richardson P.C.  
225 Franklin Street  
Boston, MA 02110-2804  
[scherkenbach@fr.com](mailto:scherkenbach@fr.com)

Robert A. Denning  
David S. Shuman  
W. Chad Shear  
Fish & Richardson P.C.  
12290 El Camino Real  
San Diego, CA 92130  
[denning@fr.com](mailto:denning@fr.com)  
[shuman@fr.com](mailto:shuman@fr.com)  
[shear@fr.com](mailto:shear@fr.com)

Jonathan J. Lamberson  
Christina D. Jordan  
Craig R. Compton  
Fish & Richardson P.C.  
500 Arguello Street, Suite 500  
Redwood City, CA 94063  
[lamberson@fr.com](mailto:lamberson@fr.com)  
[cjordan@fr.com](mailto:cjordan@fr.com)  
[compton@fr.com](mailto:compton@fr.com)

*/s/ David E. Moore*  
Richard L. Horwitz  
David E. Moore  
Potter Anderson & Corroon LLP  
Hercules Plaza – Sixth Floor  
1313 North Market Street  
Wilmington, DE 19899-0951  
(302) 984-6000  
[rhorwitz@potteranderson.com](mailto:rhorwitz@potteranderson.com)  
[dmoore@potteranderson.com](mailto:dmoore@potteranderson.com)

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

CALLAWAY GOLF COMPANY,	)	
	)	
Plaintiff,	)	C.A. No. 06-91 (SLR)
	)	
v.	)	
	)	
ACUSHNET COMPANY,	)	
	)	
Defendant.	)	

**ORDER**

Having considered defendant Acushnet Company ("Acushnet") Motion to Dismiss Callaway's Claim for Breach of Contract (Count V) and to Partially Vacate the Court's November 20, 2007 Opinion and Order;

IT IS HEREBY ORDERED, this \_\_\_\_ day of \_\_\_\_\_, 2008 that Acushnet's Motion is GRANTED

---

United States District Judge